

**MINUTES OF THE  
GREENSBORO BOARD OF ADJUSTMENT  
REGULAR MEETING**

**JULY 26, 2004**

The regular meeting of the Greensboro Board of Adjustment was held on Monday, July 26, 2004 at 2:00 p.m. in the City Council Chamber of the Melvin Municipal Office Building, City of Greensboro, North Carolina, commencing at 2:00 p.m. The following members were present: Chair Donnie Sparrow, Joyce Lewis, Marshall Tuck, John Kee, John Cross, Hugh Holston and Chris Conrad. Bill Ruska, Zoning Administrator was also present.

Chair Sparrow called the meeting to order and explained the policies and procedures of the Board of Adjustment. He further explained the manner in which the Board conducts its hearings and the method for appealing any ruling made by the Board. Chair Sparrow also advised that each side, regardless of the number of speakers, would be allowed a total of 20 minutes to present evidence.

**APPROVAL OF MINUTES OF LAST MEETING**

Ms. Lewis moved approval of the June 28, 2004 minutes as written, seconded by Mr. Tuck. The Board voted 6-0-1 in favor of the motion. (Ayes: Sparrow, Lewis, Kee, Cross, Holston, Tuck. Nays: None. Abstained: Conrad.)

Mr. Ruska was sworn in for evidence to be given by him on the requests before the Board today.

Mr. Ruska stated that there was a request to continue BOA-04-21.

Marc Isaacson came forward and stated that he was before the Board today on behalf of Ms. Katie Cashion, the applicant for this request. She had to be out of town and would be unable to attend the meeting and asked that the request be continued to the August meeting.

Mr. Lewis moved to continue BOA-04-21 to the August meeting, seconded by Mr. Tuck. The Board voted 7-0 in favor of the motion. (Ayes: Sparrow, Lewis, Tuck, Kee, Cross, Holston and Conrad. Nays: None.)

**OLD BUSINESSII. OLD BUSINESSII. OLD BUSINESS**

**VARIANCE**

**BOA-04-20: 3400-3300 WEDGEWOOD PLACE, 418-412 BEVERLY PLACE, AND 703 HOBBS ROAD. THE PROPERTY OWNERS OF 14 CONTIGUOUS LOTS AND 703 HOBBS ROAD REQUEST A VARIANCE FROM THE MAXIMUM FENCE HEIGHT REQUIREMENT. VIOLATION: A PROPOSED PRIVACY FENCE ALONG THE NORTH LINES WILL EXCEED THE MAXIMUM HEIGHT OF 6 FEET BY 2 FEET WITHIN 15 FEET OF THE WEST FRIENDLY AVENUE**

**RIGHT-OF-WAY, CONTINUED FROM THE JUNE 28, 2004 MEETING.**  
**SECTION 30-4-9.6(A), PRESENT ZONING-RS-12, BS-47, CROSS STREET**  
**- HOBBS ROAD. (GRANTED)**

Mr. Cross stated that he would recuse himself since the presenting attorney for this request is a member of his law firm.

Mr. Tuck moved to recuse Mr. Cross, seconded by Mr. Kee. The Board voted unanimously in favor of the motion.

Mr. Ruska stated that Derek Allen, representing fifteen property owners, all of whom own lots at 3400-3300 Wedgewood Place, 418-412 Beverly Place, and 703 Hobbs Road, has petitioned for the variance. This case was continued from the June 28, 2004 meeting, to include the property owners at 703 Hobbs Road in this request. The properties are located on the south side of West Friendly Avenue east and west of Hobbs Road and west of Avondale Drive on zoning map block sheet 47. The lots are all zoned RS-12. The applicant is proposing to construct a privacy fence/wall that will be eight (8) feet high within fifteen (15) feet of the West Friendly Avenue right-of-way instead of the required maximum six (6) feet. On lots where the rear or side yard adjoins a major thoroughfare or a minor thoroughfare and there is no driveway access and no sight distance interference, no fence/wall shall exceed six (6) feet in height within fifteen (15) feet of the thoroughfare right-of-way.

The Greensboro Department of Transportation has approved the location as acceptable. No portion of the fence/wall will encroach into the West Friendly Avenue right-of-way. The property located directly across the street from these properties, will be developed as an expansion of Friendly Shopping Center. The proposed fence/wall will be constructed of brick and will help to buffer the residential lots from the impacts of expansion. The fence/wall is proposed to extend from 412 Beverly Place to the intersection of Hobbs Road and West Friendly Avenue for a distance of approximately 1,400 linear feet. There is no access along this portion of West Friendly Avenue. The driveways are all located on Wedgewood Place and Beverly Place. The fence/wall is also proposed to be built along the frontage of 703 Hobbs Road, which is adjacent to the western side of Hobbs Road. The frontage for this lot along Friendly Avenue is approximately 160 feet. In reference to Section 30-4-9.6(E)1) Measurements: ?Fence height shall be measured at the highest point, not including columns or posts, of the fence section as measured from the grade on the side nearest the abutting property or street. The adjacent properties to the east, west and south are also zoned RS-12. The property to the north of West Friendly Avenue is zoned CD-GB and CD-SC.

Derek Allen, attorney representing the applicants, was sworn in and stated that he represents the 15 property owner applicants and also represents Hobbs Street Properties, LLC. But for the bankruptcy of Burlington Industries, they would not be requesting this variance because that was a long-term lease and everyone including Hobbs Street Properties, LLC, expected and intended for Burlington Industries to stay there for a long time to come. The economy changes and Burlington Industries circumstances changed and, therefore, Hobbs Street Properties had to do something to take care of that property. They are forced to do something with that property which includes expanding the development of Friendly Shopping Center. Knowing the reality of what that would bring in terms of increased traffic, noise, light, congestion and an

impact on the neighborhood, before the rezoning application was filed, Hobbs Street Properties

scheduled meetings with the surrounding neighborhoods. During those meetings they agreed to different conditions that were included in the rezoning request. There currently are privacy fences on the abutting property lines and these fences are typically 6 foot wooden fences that differ in design, age and are very mis-matched. The plan is to make that a more uniform privacy fence that would be pleasing aesthetically and would compliment the development of the property across the street. The neighbors have requested that the 6 foot fence be increased to a height of 8 feet. It is felt that the property owners will not be able to make reasonable use of their property without the extension to an 8 foot fence. He presented a map which showed the site in question and the existing 16 residential properties that would be impacted by the variance.

Scott Kinsey, 703 Hobbs Road, stated that his driveway entrance is on Hobbs Road and there is no entrance from Friendly Avenue. He stated that he is speaking for the neighbors that would be impacted by this expansion of the shopping center. They support the issues that were addressed by Mr. Allen. The key issues for them are the additional noise, pollution and lighting but they feel that this wall would help to off-set these impacts. They also feel that the wall will help address some of the safety concerns in addition to the previously stated concerns. He thanked Starmount for their work in the neighborhood and they have done a good job in helping address the concerns of the residents throughout the process.

In response to a question by Mr. Tuck, Mr. Allen stated that they would minimize any impact on the existing vegetation currently on the property.

Carol Royal, 412 Beverly Place, was sworn in and stated that her property backs up to Friendly Avenue and they are one of the last lots before the property starts to turn. She stated that the vegetation and shrubs that are currently in place are red-tips that are dying anyway. About 8 years ago they invested about \$4,500.00 in red-tips planted across the back of the yard to help protect them from Friendly Avenue traffic and those plants have all died. Plantings in that area do not get enough sunlight and they constructed an 8 foot fence around their yard and placed it 15 feet from the property line to make sure they were not in violation and this fence helps with noise impacts on their property. She pointed out that when the City cleans up the street right-of-way in that particular area they dump the trash into the back yards. She has made many phone calls to the city to complain about this but there has been no response as yet. She feels that the 8 foot brick wall will help with this problem.

Ms. Lewis moved that in regard to BOA-04-20, that the Zoning Enforcement Officer be overruled and the variance granted based on the following findings of fact: The practical difficulties are that there is going to be an extension of the shopping center in an area where the expectation of the residents had been a more stable environment until the economy changed and that the increase of traffic and pollution would keep them from making a reasonable use of their property. It is not a problem which they have caused, in that, it is the unique circumstances with the selling of the Burlington Industries property and then new businesses to be located there. The fact is that the 6 foot fence, which is what the ordinance allows, would not do very much to contain the noise levels or the site visibility in terms of new buildings across the street from these landowners. The hardship is not the result of the applicant's own actions because they had no effect on the change in the economy. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit because it will help cut down on the noise, it goes a long way in assuring

pedestrian and vehicular traffic safety and it preserves the value of the homes in this particular area. The granting of the variance assures the public safety and welfare and does substantial justice because it will create no problems in terms of sight problems and the Greensboro Department of Transportation has already approved the location as acceptable, seconded by Mr. Holston. The Board voted 6-0-1 in favor of the motion. (Ayes: Sparrow, Lewis, Holston, Tuck, Kee, Conrad. Nays: None. Abstained: Cross.)

**NEW BUSINESS III. NEW BUSINESS III. NEW BUSINESS III. NEW BUSINESS**

**APPEAL OF SIGN ORDINANCE INTERPRETATION**

**BOA-04-21: 1717 BATTLEGROUND AVENUE KATIE CASHION APPEALS AN INTERPRETATION OF THE ZONING ADMINISTRATOR REGARDING A NONCONFORMING BILLBOARD SIGN WHICH EXTENDS ABOVE THE ROOFLINE OF A STRUCTURE. PRESENT ZONING-GB, BS-10, CROSS STREET- PEMBROKE ROAD. (CONTINUED)**

This item was continued at the beginning of the meeting.

**OTHER BUSINESS**

Mr. Ruska presented a Resolution of Appreciation for Mr. Peter Kauber's service on the Board, to be signed by the Board members.

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There being no further business before the Board, the meeting was adjourned at 2:36 p.m.

Respectfully submitted,

Donald Sparrow, Chair  
Greensboro Board of Adjustment

DS/jd